

January 8, 2016

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: WC Docket No. 11-42 – Lifeline and Link Up Reform and Modernization  
EX PARTE PRESENTATION**

Dear Ms. Dortch:

This letter is submitted on behalf of my client, TracFone Wireless, Inc. (“TracFone”) and is in response to the ex parte letter submitted on December 21, 2015 by AT&T Services, Inc. (“AT&T”) in the above-captioned matter.

In its December 21 letter, AT&T reiterates several of the advocacy points it has made repeatedly throughout this proceeding. On certain issues, TracFone agrees with AT&T. For example, TracFone and AT&T agree that responsibility for verifying applicants’ Lifeline eligibility should be transferred from Lifeline providers to a third party verifier selected by the Commission. On other points, TracFone respectfully disagrees with AT&T positions.

Much of the rationale underlying AT&T’s December 21 letter is built upon a flawed premise: that Lifeline should be conceived of as a “benefit” rather than as a “service.” AT&T suggests that Lifeline is a benefit which should be provided directly by the Government to consumers as is the case with certain government benefit programs, *e.g.*, SNAP [the Supplemental Nutritional Assistance Program] administered by the U.S. Department of Agriculture. Contrary to AT&T’s suggestion, unlike SNAP, Lifeline is not a benefit; it is a service provided by eligible telecommunications carriers to qualified low-income households. Any doubt about this conclusion is easily resolved by review of the applicable Commission rules governing the program. Section 54.401(a) of the rules defines Lifeline as “a non-transferable retail **service offering** provided directly to qualifying low-income consumers (47 C.F.R. § 54.401(a) (emphasis added). Section 54.401(c) explicitly prohibits eligible telecommunications carriers from collecting service deposits in order to initiate Lifeline **service** for certain service plans. Indeed, Section 254(b)(3) of the Communications Act explicitly states that consumers, including low-income consumers, should have access to telecommunications (and information) **services**. In short, the Lifeline program was conceived by the Commission as a service program; it was codified as such; and any conversion of the program from a service program to what AT&T calls a “benefit” *a la* SNAP, would require enabling legislation similar to those Congressional enactments which have established other governmental benefit programs.

Nothing in the Communications Act of 1934, as amended, provides any authority for the Commission to re-invent Lifeline as a direct government to consumer benefit.

One of AT&T's specific criticisms of the current Lifeline service program is that changing providers is a complicated process for consumers. As TracFone explained in a prior ex parte letter filed in this proceeding (filed December 7, 2015), switching Lifeline service providers is not complicated. In fact, millions of Lifeline customers change their service provider each year. TracFone certainly knows this to be so. As it noted in its December 7 letter, more than 1.5 million consumers have transferred into and out of TracFone's SafeLink Wireless® Lifeline program since the inception of the National Lifeline Accountability Database in 2014.

AT&T's stated basis for its claimed complexity of the Lifeline provider change process is that it hears from customers complaining that their Lifeline discount no longer is reflected on their AT&T invoice. This claim does not withstand scrutiny. There can only be three reasons why a Lifeline-eligible low-income customer would lose his/her Lifeline discount with AT&T:

1. The customer selected another Lifeline provider instead of AT&T;
2. Another provider unlawfully switched the customer's Lifeline provider without the customer's consent (*i.e.*, the customer was "slammed" in violation of 47 U.S.C. § 258);
3. The customer failed to re-certify his/her continuing Lifeline eligibility annually as required by the Commission's rules and therefore was de-enrolled by AT&T as required by the rules.

If an AT&T Lifeline customer had de-enrolled himself/herself from AT&T's Lifeline service and enrolled in another provider's Lifeline service, then there would be no reason for the customer to contact AT&T to complain about the loss of the customer's Lifeline discount on the AT&T bill unless the customer somehow forgot that he/she changed providers or unless the customer believed incorrectly that it could receive Lifeline service from AT&T and from another provider. If the customer was "slammed" in violation of Section 258 of the Communications Act, the customer could bring a complaint and the offending provider would be subject to enforcement action by the Commission. (TracFone is the nation's leading provider of Lifeline service and is not aware of carrier slamming of enrolled customers being a problem in the Lifeline market segment). Finally, if AT&T is losing large numbers of Lifeline customers through the annual re-certification process as it claims (according to its letter, more than 40 percent of its Lifeline customers are de-enrolled annually for failure to re-certify their eligibility), then that is a matter within AT&T's control. For example, TracFone has implemented a process which provides repeated reminders to Lifeline customers urging them to respond to re-certification requests so as to avoid disruption to their Lifeline service. Nothing prevents AT&T from utilizing similar procedures to minimize the numbers of Lifeline customers which it loses for failure to re-certify, assuming it is committed to attempting to retain its Lifeline customers.

AT&T's real reason for suggesting that Lifeline be converted from a service to a SNAP-type benefits program is candidly stated at pp. 2-3 of its December 21 letter: "*The information and processes required to achieve this discounting is unique to Lifeline consumers and has no other business purpose. As a result, much is performed through manual methods.*" In a footnote accompanying that statement, AT&T – the nation's largest telecommunications carrier – complains that it would be uneconomic for it to modify large systems to automate the Lifeline program requirements (n. 3). In short, AT&T is candidly stating that investment of the systems needed to provide Lifeline service to consumers is more trouble to it than it is worth. Avoidance of the burdens of providing Lifeline might be what has motivated AT&T to seek forbearance from the requirement that incumbent local exchange carriers subject to price cap regulation offer all services supported by the Universal Service Fund, including Lifeline. That request was recently denied by the Commission. Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks, FCC 15-166, released December 28, 2015.

Whether or not AT&T or any other provider chooses to make the investments necessary to automate its Lifeline service is a business decision for each provider. However, in considering reforms to Lifeline, the Commission should be guided by the public interest and considerations of how to achieve its stated program goals of modernizing Lifeline to support broadband and making the program more efficient, specifically by preventing fraud. Those reforms should not be based on any one provider's business interests. The adverse impact that a voucher system would have on low-income Lifeline-eligible households is well-stated in a letter and accompanying petition (signed by more than 2,800 consumers) submitted by Consumer Action in this proceeding on January 5, 2016. The petition notes that a voucher system would be unduly complicated and would possibly require low-income consumers to incur ATM or other charges in order to receive Lifeline service and that such a program change would reduce sharply the number of Lifeline subscribers. TracFone shares that concern.

TracFone agrees that further Lifeline reforms should be implemented to enhance the program's efficiencies, better serve low-income households by encouraging competition and consumer choice, and enhancing the availability of affordable telecommunications service (including broadband Internet access) to all American households, including low-income households. The Commission should be leery of proposals couched as "pro-competitive" which are, in fact, nothing more than ways to reduce their proponents' burdens of participation in Lifeline. For these reasons, TracFone respectfully urges the Commission to modify the Lifeline program as proposed in its earlier comments in this proceeding.

Ms. Marlene H. Dortch  
January 8, 2016  
Page 4 of 4

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

Cc: Mr. Trent Harkrader  
Ms. Garnet Hanly  
Mr. Charles Eberle  
Ms. Jodie Griffin  
Mr. Jon Wilkins  
Ms. Gigi Sohn  
Mr. Jonathan Chambers